

Rocky Mountain Peace and Justice Center

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November 23, 2001

To: Steve Gunderson, CDPHE
Joe Legare. DOE Rocky Flats

From: LeRoy Moore

Re: Remarks made at November 14 Focus Group meeting

The important public process around the RSAL issue was not helped by the verbal diatribes delivered by the two of you toward the end of the RFCA Focus Group's November 14 meeting. What happened was disturbing not simply because you both violated the guidelines for Focus Group sessions. More troubling were the things you said. Before turning to these things, I'll say that it's not difficult to understand your unhappiness that at this point in the RSAL work, when we're coming down to the wire, things are not as you wanted and expected them to be. The unhappiness the two of you expressed perhaps mirrors a similar but differently based unhappiness evident for some time among some non-agency participants in the Focus Group. Conceivably, your level of frustration is unusually high because of your official responsibility and close proximity to the actual RSAL decision-makers. But I invite you to consider that some of the rest of us around the table are equally frustrated because our views don't seem to be adequately considered. The agencies you represent hold decision-making power. The rest of us are simply more or less well-informed spectators who are trying to influence the outcome.

As for what was said the other evening, two things stand out. First, it was lamented by you, Steve, that people at the table have "positions" on the RSAL issue and thus seem "inflexible" after all these months of working together. Then, second, you, Joe, lambasted the absent Citizens Advisory Board (in the person of its Board/Staff Coordinator) for presenting to the Principals on October 30 a recommendation on the RSALs that you found completely off-base because not grounded in the work done to date on the RSAL issue. As I recall, you also characterized the CAB recommendation as "inflexible."

I have several comments to make in response.

1) Regarding "positions," some months ago the agencies made decisions — that is, took "positions" -- on both the regulatory framework and the future-use scenario to be employed in calculating the RSALs. A number of Focus Group participants did not agree. Evidently the CAB also did not agree. It's unclear about the rest of the public, but the October 30 Principals meeting suggests that many people in the community do not support the approach the agencies have taken. As for the Focus Group itself, after we were told in no uncertain terms that a decision for the wildlife refuge worker scenario had already been made, I, as both of you know, made some effort to determine who made this decision, and when, whether it was made in Washington or locally, whether pressure came from inside or outside the agencies. I believe it correct to say that we do not know who made this decision, or who weighed in. But we do know that, because Rocky Flats is expected to become a wildlife refuge, a decision was made to choose the refuge worker scenario. Legally the agencies certainly can employ this scenario, but they are not obligated to do so. Legally the agencies could adopt a more protective scenario. Yet agency personnel have shown no willingness to explore this option. On the day the Focus Group was told quite clearly that the scenario decision had been made and was not open to discussion, I spoke out in the meeting and called it an "irresponsible" decision -- because it offers a short-term solution to the long-term problem of plutonium contamination. I and others on the Focus Group have repeatedly said in a variety of ways that Rocky Flats will cease being a wildlife refuge long before plutonium left in the environment ceases being dangerous. The RSALs thus should be calculated to protect a hypothetical future resident, such as the resident rancher scenario used by RAC or the subsistence farmer scenario proposed in an August 12 Denver Post op-ed by Arjun Makhijani and myself. Those of us who have argued for a more realistic, more protective scenario

ADMIN RECORD

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have insisted that using such would better protect all future users of the site, including the refuge worker. This bit of history needs reciting, since some agency personnel seem to have forgotten that it was the agencies who initially adopted a fixed position on the RSALs and have held to it ever since. It has been no secret that some Focus Group participants never accepted the position staked out by the agencies. Now we're accused of being inflexible because we haven't adopted the inflexible position of the agencies.

2) The role of the Citizens Advisory Board is revealed in its name. It is an advisory body. In making its recent recommendation on the RSAL issue the CAB did exactly what it is supposed to do. The agencies have the responsibility to respond with as much care as the CAB exercised in making its recommendation. Of course, the response should be addressed directly to the CAB, not to other bodies.

3) The CAB recommendation, authored initially by Victor Holm, as he acknowledged, did not come from nowhere. The recommendation says several things, but its fundamental proposal regarding the RSALs is an expression of what Victor calls a "bottom-up" approach. His paper on this topic first appeared months ago, and he has circulated it numerous times since. The ideas in the paper have from time to time been discussed in Focus Group meetings. I appreciate Victor's tenacity in not letting his good idea die. His idea grew on me, and I was glad to see it finally taking the form of what became a CAB recommendation. The point here is to recognize that the CAB recommendation doesn't represent a novelty. It's almost old hat, including of course the oft-repeated long-term goal of cleanup to average background level.

4) The CAB recommendation is not inflexible. In good bottom-up fashion, it calls for the RSAL to be set at the most protective end of the CERCLA risk range (10-6). But then it becomes immediately flexible, because it tells the agencies that, if they cannot adopt the RSAL at this level, they need to explain why and to work with the community to find the best possible alternative.

5) It has not been lost on those of us at the Rocky Mountain Peace and Justice Center that an attack on the CAB's RSAL recommendation was also implicitly an attack on us, since the RSAL recommendation we made at the October 30 meeting with the Principals employed the same bottom-up framework as the CAB. Our recommendation also included the same flexibility. Begin with an RSAL set at the most conservative end of the CERCLA risk range (10-6), but realize that if cleanup cannot now be done to this level we want to know why and we're willing to work with the agencies to find a reasonable alternative.

6) While we at the Peace and Justice Center used the same bottom-up framework as the CAB, the recommendation we made on October 30 is more conservative than the CAB's in that we propose calculating the RSALs to protect a subsistence farmer. We don't propose this because we're stubborn; we propose it because we believe use of this scenario provides the best possible protection for any future use of the Rocky Flats site. Moreover, as was made clear in our presentation to the Principals, our push for more stringent protection grows directly out of our understanding of the peculiar danger of plutonium, especially at a site with the unique features of Rocky Flats.

If the Peace and Justice Center has any credibility with people in the Denver metro area regarding the RSALs and cleanup, it is because we articulate clearly and in some detail what they say they want -- the best possible cleanup current technology can provide. People want this, not just for themselves but for unknown, unsuspecting future generations.

Besides reaching out to the affected public, we at the Peace and Justice Center feel compelled to challenge the agencies responsible for the cleanup of Rocky Flats when we think irresponsible decisions are being made. In this regard, we will soon provide a detailed scientific analysis of the rationale for using the subsistence farmer scenario to calculate the Rocky Flats RSALs. As we have said several times previously, including at the October 30 Principals meeting, a report on this topic is being prepared for us by our scientific consultants, Dr. Arjun Makhijani and his colleagues of the Institute for Energy and Environmental Research in Takoma Park, Maryland. We expect Dr. Makhijani to be in the Denver area to release this report at a public meeting on Wednesday, December 12. More details will be provided about this later.

We at the Peace and Justice Center are trying to do our work as well as possible, and we know you and others want to do the same. In that spirit, we look forward to next steps.

cc: RFCA Focus Group
Rocky Flats Citizens Advisory Board

- KH is an interest
- Citizens at large
- Neighbors
- Interested groups

RFCA Agencies

- Also
- RFCA
 - Minimize IC's & EC's
 - Closure continued

Local Government

- Also
- End State
 - CAPS
 - Technology
 - Post-closure commitment

Future Generations

- Cost of stewardship

Development is an interest

- Refuge strategy
- Intergenerational justice
- Preserving history
- D&D progress/process
- Refuge funding

Tim's Group

- Need DOE & K-H schedule for near-term ER work to ID drivers
- How process could be derailed – How to avoid

Topics:

-What options out there and discuss

Steve's Group

What interests not represented:

- Waste receivers
 - How to deal with interests
 - Some discussion of specific options
 - Circulate DOE options
 - FG ID's other options – bin them
 - Agenda group lay out path forward
 - Discuss SFC/Sub surface next meeting
 - ID variables and tradeoffs
-
- Informal input to groups
 - Need to set deadlines and meet them
 - Options should also look at lowered funding
 - End State discussions important
 - Details & schedule on how we move forward
 - Have recommending groups in to discuss their views
 - How can CAB recommendations be incorporated in FG dialog
 - This is a good place to talk about details (using our know)
 - CAB/RFCLOG good places to discuss policy
 - Bring conversations in from other groups for feedback/education
 - Spend some time on assumptions

November 28, 2001

Dear Stakeholder:

The Rocky Flats Cleanup Agreement (RFCA) Stakeholder Focus Group will meet at the Broomfield Municipal Center at One DesCombes Drive on November 28, 2001 from 3:30 to 6:30 p.m.

The agenda for the November 28, 2001 meeting is enclosed (Attachment A). We will discuss the following topics:

- Task 3 Peer Review and Wind Tunnel Technical Review – update
- Facilitator's Report on Focus Group – Interests and Path Forward
- Focus Group Discussion and Decision – Focus Group Role, Path Forward and Topics
- Focus Group Discussion and Decision – Focus Group Role, Path Forward and Topics (Cont.)
- Cleanup Priorities – Group Identification of Options
- Identify topic(s) for next meeting, information needed from Agencies and homework for Focus Group Members

The handouts from the November 14, 2001 RFCA Focus Group meeting are enclosed as Attachment B, including:

- 11/15/01 RSALs Working Group notes,
- Memorandum: to Jessie Roberson from Energy Communities Alliance Dated November 7, 2001, regarding long-term stewardship; and
- Presentation to Meeting on Soil Action Level, Joe Goldfield, dated October 30, 2001.

Attachment C is the first Wind Tunnel Peer Review.

If you need additional information to prepare you for the Focus Group discussion on November 28, 2001, please contact Christine Bennett of AlphaTRAC, Inc. at 303 428-5670 (cbennett@alphatrac.com). Christine will help to find the appropriate resource for you.

You may call either Christine or me if you have any questions, comments, or suggestions concerning the RFCA Stakeholder Focus Group or the upcoming meeting.

Sincerely,

RFCA Stakeholder Focus Group
October 11, 2001
Page 2 of 2

C. Reed Hodgins, CCM
Facilitator / Process Manager

RFCA Stakeholder Focus Group

November 28, 2001

Meeting Minutes

INTRODUCTION & ADMINISTRATIVE

A participants list for the November 28, 2001 Rocky Flats Cleanup Agreement (RFCA) Stakeholder Focus Group meeting is included in this report as Appendix A.

Reed Hodgkin of AlphaTRAC, Inc., meeting facilitator, reviewed the purpose of the RFCA Focus Group and the meeting rules. Introductions were made.

AGENDA

Reed reviewed the agenda:

- Facilitator's Report on Focus Group – Interests and Path Forward
- Focus Group Discussion and Decision – Focus Group Role, Path Forward and Topics
- Cleanup Priorities – Group Identification of Options

FACILITATOR'S REPORT ON FOCUS GROUP—INTERESTS AND PATH FORWARD

The Focus Group meeting began with Reed's presentation, "Facilitator's Report on Focus Group - Interests and Path Forward."

As promised from the last Focus Group meeting, Reed reflected on discussions and interactions with the Focus Group, had discussions with members, and prepared observations and recommendations for the Focus Group to consider.

Reed's observations identified which interests (topical and agency) are operating in the discussion, what barriers exist to reach agreement, and the need for a bounded discussion. Reed also conducted an evaluation of how all the interests can be served, the relationship between the Focus Group and other community involvement efforts, and a proposed path forward for the Focus Group.

There are various agencies and special interest groups represented in the Focus Group, with differing and important positions. So far, RFCA agencies, local governments, the Rocky Flats Citizens Advisory Board (CAB) and wildlife protection interests

(represented at this time by the U. S. Fish and Wildlife Service) continue to discuss different aspects of protecting future generations by getting the best cleanup possible.

The RFCA agencies and the U.S. Department of Energy (DOE) have focused on risk and dose compliance, as well as surface water compliance. An effective stewardship program is also noted of high importance to RFCA agencies. Other significant points that RFCA agencies are interested in include working within the available budget and making accommodations for an accelerated closure—all the while, balancing with community priorities.

For the local governments, the areas of emphasis involve protection and removal. Risk protection for residents and Rocky Flats Site (Site) users and protection of water resources are of significant concerns. Removal of surface and subsurface contamination provides a basis for an effective stewardship program.

In terms of protecting future generations, surface and subsurface contamination removal are the main focus.

The CAB finds that surface and subsurface contamination removal to background levels are of importance, as well as a plan for risk protection for residents and Site users.

Wildlife protection interests have particular concern for risk protection involving protection of wildlife, ecosystem, habitat, wildlife workers, and refuge users.

Based on the group discussion, Reed summarized fundamental interests shared by Focus Group members. Mostly, these involved areas of compliance and removal, yet effective stewardship and wildlife/habitat protection remain high on the list.

For compliance and removal activities, fundamental interests remain concerned with risk, dose, and surface water compliance. Removal concerns involve both surface and subsurface contamination. It was noted that the interests would fail to evolve without the commitment of all stakeholders.

From that point, Reed discussed some barriers that the Focus Group is having when trying to reach agreement. These barriers involve available funding, time, and technology. There is a great deal of uncertainty whether there will be adequate funding or if accelerated schedules can be met. Technology, or lack thereof, has been a

persistent problem in meeting the needs of the community and agencies for the best possible cleanup. Reed identified one last, but critical barrier—trust. There still is a need to build trust among Focus Group members.

Reed presented a visual on “Interests, Risk, and Budget.” Essentially, the visual communicated how risk determinations—interests such as compliance, surface and subsurface contamination and removal, and surface water protection—interplay with the budget. Conclusions indicate that all interests can be met to some extent with available budget, but not all interests can be fully met with the available budget.

Next, Reed presented “A Bounded Discussion.” If the group moves forward in a bounded discussion, the focus will be on the question:

“How can Rocky Flats best be cleaned up with the available budget?”

Reed noted that the immediate driver for a bounded discussion is the schedule on which a cleanup decision for the 903 Pad must occur. Key questions were presented concerning the bounded discussion:

1. Can the Focus Group contribute to the bounded discussion?
2. Can the Focus Group support the interests that are not fully met by the bounded discussion?

Reed’s recommendation is “yes to both.”

Reed identified another bounded discussion area:

“What are the options for cleaning up Rocky Flats within available budget and how do these options serve the interests at the table?”

Reed suggested evaluating options against the Comprehensive Environmental Restoration and Compensation Liability Act (CERCLA) criteria and interests to help identify the “best option(s).” Once the bounded discussion is in hand, it would be useful to identify options for furthering interests not fully met in the bounded discussion. This could include decisions to reduce risk further or additional source removal. Or it could involve the identification and compilation of information so that

stakeholders can pursue options. From this perspective, the Focus Group could evaluate the researched options in a small group setting.

Another important part of the process includes other community involvement operations. These operations tend towards being recommendation-oriented and include the Rocky Flats Coalition of Local Governments (RFCLOG), the CAB, the Stewardship Working Group, one-on-one discussions, and formal public comment.

Based on Reed's evaluation, interaction with these community involvement operations could involve expanding the scope of the Focus Group to directly support these and other recommendation-making groups. The Focus Group could also develop and evaluate options that other groups can use in their recommendation formulation.

To conclude the presentation, Reed provided formal thoughts on the next steps, entitled "A Recommended Path Forward." Path forward objectives range from identification of strategies to evaluation and coordination activities. Specifically, as a recommended path forward, the Focus Group could focus on the following initiatives:

1. The Focus Group identifies RSAL strategies and evaluates them against interests.
2. The Focus Group identifies strategies for moving beyond the bounded discussions.
3. The Focus Group identifies and the agencies compile information to serve these discussions.
4. The Focus Group evaluates beyond bounded scenarios against CERCLA criteria and interests.
5. The Focus Group coordinates with recommendation-making groups so that information and analyses help serve the needs of these groups.

Some Focus Group members expressed concern for the lack of agreement among the interests. One Focus Group member noted that pure information exchange would not be adequate when trying to bind discussions. Reed noted that a process for evaluating end-state results and budgetary impacts were other important considerations, in addition to those expressed by the Focus Group.

The discussion continued among Focus Group members. It was generally felt that, fundamentally, a willingness to commit to continued discussions, whether considered bounded or unbounded, was needed. Some Focus Group members felt the group's

dynamics needed redefining, and a shift away from emphases on what is problematic, wrong, or insufficient to what has actual potential could be beneficial. Another important thought made by a Focus Group member was that local governments were having conversations and that this Focus Group should be positioned to help understand what is needed at the community level, then report back to the local governments the group's respective comments.

The Colorado Department of Public Health and Environment (CDPHE) stated that decisions will have to be made, and soon. CDPHE continues to be willing to participate in the process as it has provided a level of detail not found anywhere else. And it remains important that windows of opportunity are not bogged down by discussions that lack in results.

FOCUS GROUP DISCUSSION AND DECISION—FOCUS GROUP ROLE, PATH FORWARD, AND TOPICS

The Focus Group entered a small group discussion format to identify other interests needing to be recognized and to prioritize those interests against CERCLA criteria and existing topics.

The small groups reported back to the Focus Group with the following observations, ideas, and comments:

- Kaiser-Hill, LLC, the Rocky Mountain Peace and Justice Center, RFCA agencies and citizen interests seemed to be missing.
- There existed an interest in complying with and completing RFCA.
- Information of where the technology is, what it could be, and how technology would benefit end-state is desired.
- When and how the public will have access to the Site is of interest.
- A schedule from DOE and Kaiser-Hill regarding environmental restoration is necessary to understand the drivers for arriving at one key element of this process, which is the RSAL.
- A matrix of options (past and recent) formed in this group and other venues would help discern which options make sense, which require more work, and to form new or modified options.
- More discussion is needed on approaches to the group concerned with future generations.
- Discussion needs to take place regarding the potential for more surface cleanup with the existing budget.
- Address alignment issues between the CDPHE and the community regarding monitored retrievable storage.
- Consider ways to arrive at a “revenue-neutral” basis to get the best clean up possible.
- Address, from the regulatory and budgetary standpoint, the storage of low-level waste on the Site.

Reed closed out the small group presentations by observing that collaborative discussions were, in fact, occurring. With that comment, Reed transitioned the Focus Group to developing a broad list of cleanup options.

CLEANUP PRIORITIES—GROUP IDENTIFICATION OF OPTIONS

Reed asked the Focus Group for a broad list of cleanup options so as to form a basis for the next Focus Group meeting.

Reed asked that the Focus Group identify the list of options, then identify the list of questions that need to be addressed in order to evaluate those options against CERCLA criteria and against interests that are on the table. Next, define an order in which these options are going to be evaluated and ask the agencies to compile the information and present it to the Focus Group. During the next meeting, the Focus Group will have some options compiled and an analysis can be conducted for additional questions needing answers through further research. This type of process will promote a system for prioritization, feedback, and provide the framework for the future.

One Focus Group member acknowledged an advantage that the Focus Group possessed. This advantage speaks to the work the Focus Group has already conducted regarding the in-depth knowledge related to contamination pathways and the migration of contamination.

The Colorado Department of Health and Environment (CDPHE) observed that not all Focus Group members thought that contamination pathways and migration issues were completely understood or resolved. In particular, a community member felt that there were uncertainties.

The Focus Group had a conversation providing some framework for investigating cleanup options. The Focus Group still has information needs and still needs to understand regulatory requirements, especially relating to water quality and water pathway. The group wants to maintain some consistency when evaluating options against regulations, DOE expectations, and community needs. The end state vision will fail if the Focus Group does not understand or develop appropriate clean up options.

Reed suggested that AlphaTRAC gather information and options from the Focus Group, as well as document the options from DOE, for the next Focus Group meeting. The point is to find one specific option to address as a pilot option discussion. At the end of the process, for any particular option, the Focus Group would have identified variables and/or sub-options for CERCLA criteria.

ADJOURN

The meeting adjourned at 6:05 p.m.

RFCA Stakeholder Focus Group
November 28, 2001
Meeting Minutes

Appendix A
Participants List

RFCA Stakeholder Focus Group Meeting Agenda

When: November 28, 2001 3:30 - 6:30 p.m.

Where: Broomfield Municipal Hall, Bal Swan and Zang's
Spur Rooms

3:30-3:40 Ground Rules, Agenda Review, Objectives for this Meeting

3:40-4:00 Task 3 Peer Review and Wind Tunnel Technical Review -
update

4:00-4:30 Facilitator's Report on Focus Group – Interests and Path
Forward

4:30–5:00 Focus Group Discussion and Decision – Focus Group Role, Path
Forward and Topics

5:00-5:10 Break

5:10–5:30 Focus Group Discussion and Decision – Focus Group Role, Path
Forward and Topics (Cont.)

5:30–5:45 Cleanup Priorities – Group Identification of Options

5:45–5:55 Identify topic(s) for next meeting, information needed from
Agencies and homework for Focus Group Members

5:55–6:00 Review Meeting

6:00 Adjourn

RFCA Stakeholder Focus Group Meeting Agenda

RFCA Stakeholder Focus Group Attachment A

Title: Agenda for December 12, 2001 Focus Group Meeting

Date: December 7, 2001

Author: C. Reed Hodgins
AlphaTRAC, Inc.

Phone Number: (303) 428-5670

Email Address: cbennett@alphatrac.com

RFCA Stakeholder Focus Group Attachment B

Title: Handouts at the November 14, 2001 RFCA Stakeholder Focus Group Meeting, including:

- 11/15/01 RSALs Working Group notes,
- Memorandum: to Jessie Roberson from Energy Communities Alliance Dated November 7, 2001, regarding long-term stewardship; and
- Presentation to Meeting on Soil Action Level, Joe Goldfield, dated October 30, 2001.

Date: November 27, 2001

Authors: Various

Phone Number: (303) 428-5670

Email Address: cbennett@alphatrac.com

**RFCA Stakeholder Focus Group
Attachment C**

Title: 1st Wind Tunnel Peer Review

Date: November 28, 2001

Phone Number: (303) 428-5670

Email Address: cbennett@alphatrac.com